IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL, CIVIL JURISDICTION

WRIT PETITION NO.1010 OF 2006

Union of India & Ors. ....Petitioners

Vs.

Vinay V. Parab.....Respondent

Mr. V.S.Masurkar with Mr. G.Hariharan i/b. Dr. T.C. Kaushik, for the Petitioner

Mr.S.A. Deshpande, for the Respondent

CORAM: **F.I. REBELLO &**

MRS.V.K.TAHILRAMANI, JJ.

DATE: 5TH JUNE,2006

P.C.

. The respondent was promoted on ad-hoc basis to the cadre of Inspector of Railway Mail Service. It appears that his pay was fixed under F.R.22-1-A instead of F.R.35. The respondent thereafter was reverted to his original post. The petitioner sought to make certain recoveries, on the ground that amounts were wrongly paid whereupon the respondent herein filed O.A.601 of 2004.

2. The learned Tribunal noted various contentions urged before it, by the respective sides. After considering the nature of the appointment the learned Tribunal relied upon various judgments

including the judgment of the Apex Court in Shyam Babu Verma vs. Union of India 1994 (2) SLJ 1999 (SC). The learned Tribunal held relying upon the aforesaid judgment that it would not be proper after long time to make recoveries in respect of a promotion which was made by the petitioners herein and accordingly directed that the recovery made, be refunded to the respondent herein. It is this order which is the subject matter of the present challenge.

3. The Union of India has come to this Court to invoke the extra ordinary jurisdiction of this Court. We find from the order of the Tribunal that considering the facts and circumstances and also that the respondent had worked in the post and the promotion was effected by the petitioners themselves and considering the judgments relied upon, it would not be appropriate to make recoveries. We find that once the Tribunal on the totality of circumstances has exercised its discretion it would not be proper on our part in exercise of the extra ordinary jurisdiction to interfere with the order passed by the Tribunal. The view taken by the Tribunal cannot be said to be a view which could not be taken. In the light of that no interference called for.

Petition dismissed.

(**F.I. REBELLO, J)**

(**MRS.V.K.TAHILRAMANI, J).**